

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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BANK OF NEW YORK TRUST CO.,

Plaintiff,

v.

CITY VIEW CENTER, LLC, *et al.*,

Defendants.  
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CASE NO. 1:09-CV-328

ORDER

[Resolving Doc. No. [59](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

The Plaintiff in this mortgage foreclosure case seeks entry of default against a number of named defendants, including Defendant City View Center. [\[Doc. 59.\]](#) Most of those defaults have proceeded without issue, *e.g.* [\[Doc. 64\]](#), but the Court expressed concern that service was not perfected on Defendant City View Center and requested a supplemental showing. [\[Doc. 67\]](#); *see Maryland State Firemen's Ass'n v. Chaves*, 166 F.R.D. 353, 354 (D. Md. 1996). Those concerns are allayed. With the Plaintiff's submission of a supplemental memorandum, [\[Doc. 74\]](#), the Court is satisfied that the Defendant has properly been served with the Plaintiff's First Amended Complaint. [\[Doc. 43.\]](#)

No attorney entered a formal appearance for the Defendant at the time this action commenced. However, the parties submitted a proposed stipulation for the appointment of a receiver for the property involved in this case shortly before Judge O'Malley made such an

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appointment. That stipulation says William J. Stavole was counsel for City View Center. [\[Doc. 5.\]](#)

The supplemental memorandum contains Mr. Stavole's affidavit. In the affidavit, he says that since February 19, 2009, he has been authorized to receive service on behalf of City View and that the Defendant was in fact electronically served with a corrected version of the Amended Complaint on December 16, 2011. [\[Doc. 74-3.\]](#)

Finding that the Amended Complaint was served upon City View on December 16, 2011, [Fed. R. Civ. P. 5\(b\)](#); [N.D. Ohio Civ. R. App'x. B, R. 14](#) (“[b]y participating in the electronic filing process, the parties consent to the electronic service of all documents”), and that no answer has been filed, the Court directs entry of default against Defendant City View Center, LLC under [Rule 55\(a\)](#).

IT IS SO ORDERED.

Dated: May 14, 2012

s/ James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE